

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL SCOTT BURKE,

Defendant.

CR 13-17-M-DWM

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 15, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

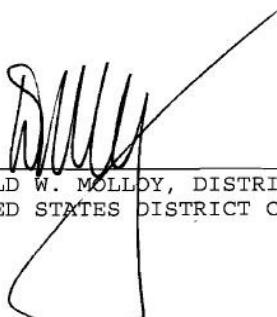
McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Michael Scott Burke's guilty plea after Burke appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of robbery involving controlled substances in violation of 18 U.S.C. § 2118(c)(1), and one count of the use of a firearm during a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(ii).

I find no clear error in Judge Lynch's Findings and Recommendation (doc. 22), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Michael Scott Burke's motion to change plea (doc. 14) is GRANTED.

DATED this 10th day of September, 2013.


DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT